

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Cooper	Team: Squad #7	CCRB Case #: 201610147	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/13/2016 1:00 PM	Location of Incident: § 87(2)(b)	Precinct: 105	18 Mo. SOL 3/13/2018	EO SOL 3/13/2018	
Date/Time CV Reported Fri, 12/09/2016 4:10 PM	CV Reported At: Office of City Council member	How CV Reported: In-person	Date/Time Received at CCRB Fri, 12/09/2016 4:10 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Ralph Clement	00000	938238	105 PCT
2. Officers			105 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Edwanna Johnson	19002	943409	105 PCT
2. POM Angel Colon	24292	926694	105 PCT
3. POM Joseph Camisa	14898	955779	105 PCT
4. POM Shavnarine Ghani	29857	936662	105 PCT
5. POF Danielle Duignan	14068	943196	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Ralph Clement	Abuse: Lieutenant Ralph Clement entered § 87(2)(b) in Queens.	§ 87(2)(b)
B.LT Ralph Clement	Force: Lieutenant Ralph Clement used physical force against § 87(2)(b)	§ 87(2)(b)
C. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)

### Case Summary

On December 9, 2016, § 87(2)(b) filed this complaint as a walk-in at the CCRB off-site location at Councilman Richard's office in Queens.

On September 13, 2016, at approximately 1:00 p.m., at § 87(2)(b) § 87(2)(b) in Queens, § 87(2)(b) and § 87(2)(b), two medical personnel from the § 87(2)(b), contacted 911 and reported that § 87(2)(b) an emotionally disturbed person, needed to be transported to the hospital for psychiatric evaluation. Lieutenant Ralph Clement, PO Edwanna Johnson, PO Angel Colon, PO Joseph Camisa, PO Shavnarine Ghani and PO Danielle Duignan entered the location (**Allegation A**). While Lieutenant Clement attempted to get § 87(2)(b) to go to the hospital voluntarily, her mother, § 87(2)(b) arrived and stated that she did not want her daughter to be transported to the hospital. Lieutenant Clement allegedly pushed § 87(2)(b) (**Allegation B**). Lieutenant Clement and one to two other officers then allegedly grabbed § 87(2)(b) dragged her out of the house and threw her on the lawn (**within Allegation B and Allegation C**). Due to the force, § 87(2)(b) allegedly sustained swelling and bruising to her leg and abrasions to both her arms. Three days later, § 87(2)(b) went to her primary care physician where she alleged she was diagnosed with a fracture to her left leg. There was no video evidence for this case.

### Mediation, Civil, and Criminal Histories

- This case was unsuitable for mediation.
- As of December 20, 2016, § 87(2)(b) has not filed a Notice of Claim (Board Review 17).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer Histories

- § 87(2)(b) has filed one previous complaint. § 87(2)(b)
- Lieutenant Clement has been a member of service for eleven years and has been the subject of two allegations stemming from one case. In 201307307 the board recommended instructions for two discourtesy allegations and the NYDP instituted no disciplinary action.

### Explanation of Subject Officer Identification

- § 87(2)(b) stated that one officer who used force against her was a 5'4" tall, uniformed Asian male. She described the other two officers who used force against her as uniformed white 5'5" to 5'6" tall white males. However, § 87(2)(b) could not recall any additional pedigree information for those officers, beyond that one may have been 170 to 180 pounds. § 87(2)(b) stated that two officers made physical contact with § 87(2)(b) one who may have been a white male, but she did not recall any additional information for the officers. Two witnesses, § 87(2)(b) and § 87(2)(b) did not see which officers made physical contact with her.
- Lieutenant Clement, an Asian male, approximately 5'6" tall and weighing 180 pounds, acknowledged being the only supervisor on scene and that he supervised the entry in order to have § 87(2)(b) transported to the hospital. Lieutenant Clement acknowledged removing § 87(2)(b) from the location and stated that PO Colon assisted him. Lieutenant Clement stated that he and PO Colon were the only officers to make physical contact with § 87(2)(b)
- § 87(2)(g)

- PO Colon, a white Hispanic male, approximately 5’9” tall, weighing 220 pounds, did not recall if Lieutenant Clement requested his help to remove § 87(2)(b) from the house but denied that he made physical contact with her.
- PO Johnson denied that the force occurred. However, she stated that she observed Lieutenant Clement and possibly one other officer – she did not recall if this was PO Colon – physically assisting § 87(2)(b) in exiting the location.
- Although § 87(2)(b) alleged that a total of three officers used force against her, Lieutenant Clement, PO Johnson and § 87(2)(b) recounted only two officers physically assisting § 87(2)(b). Furthermore, although Lieutenant Clement stated that he instructed PO Colon to assist him in removing § 87(2)(b) from the home, PO Colon denied making physical contact with § 87(2)(b) and does not match the physical description of the subject officer as provided by § 87(2)(b). Therefore, a force allegation has not been pleaded against PO Colon.
- § 87(2)(g)  
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§ 87(2)(g)

### **Findings and Recommendations**

**Allegation A- Abuse of Authority- Lieutenant Ralph Clement entered § 87(2)(b) in Queens.**

**Allegation B- Force- Lieutenant Ralph Clement used physical force against § 87(2)(b)**

**Allegation B- Force- Officers used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) and § 87(2)(b) from the § 87(2)(b) contacted 911 and reported that § 87(2)(b) needed to be transported to the hospital to receive mental health related care after she had not taken her psychiatric medicine. It is undisputed that Lieutenant Clement arrived and authorized the entry into the location to take § 87(2)(b) into custody. It is also undisputed that Lieutenant Clement and other officers asked § 87(2)(b) and § 87(2)(b) to leave the home, and that § 87(2)(b) did not do so voluntarily. Once § 87(2)(b) was removed from the home, § 87(2)(b) voluntarily went into custody and was transported to the hospital.

§ 87(2)(b) stated that two unidentified officers grabbed her by her arms and pulled her while Lieutenant Clement pushed her on the chest. § 87(2)(b) initially stated that this action caused her to lunge forward but denied that her body made contact with the floor. However, when asked follow-up questions, § 87(2)(b) stated that she fell forward which caused her knees to make contact with the floor, resulting in a “shocking pain” to her knee. The two unidentified officers then held her by both arms, dragging her through the living room, down the cement steps and her knees and feet made contact with the floor and the steps. Lieutenant Clement and one other unidentified officer then “threw her” 16 feet from the steps until she landed on the lawn. As a result, § 87(2)(b) landed on her stomach. § 87(2)(b) allegedly sustained an abrasion on both of her arms and bruises on her knee and shoulders. § 87(2)(b) also allegedly sustained back and pelvic pain due to being dragged out of the house. Three days later, § 87(2)(b) went to her primary care physician, and she was allegedly diagnosed with a left leg fracture and given a referral to a specialist to treat her leg injury (Board Review 10).

§ 87(2)(b) denied that § 87(2)(b) was dragged or pushed toward the front door but stated that two officers, not three, guided her out of the house. § 87(2)(b) did not see § 87(2)(b)’s knees or legs make contact with the steps. As § 87(2)(b) exited the house, she saw § 87(2)(b) sitting

upright on the lawn but did not know how she ended up there. § 87(2)(b) did not hear § 87(2)(b) complaining of any injuries. The first time § 87(2)(b) learned that § 87(2)(b) had sustained any injuries was approximately two weeks after the incident while § 87(2)(b) was at the hospital (Board Review 11).

§ 87(2)(b) stated that when § 87(2)(b) arrived, she was standing on the steps and obstructed officers from entering the house. § 87(2)(b) did not recall if § 87(2)(b) entered the home and was subsequently removed by officers.

§ 87(2)(b) was speaking loudly, but § 87(2)(b) could not recall what she was saying. § 87(2)(b) did not see any officers making physical contact with her. However, § 87(2)(b) saw § 87(2)(b) sitting upright on the lawn but did not know how she had gotten there. § 87(2)(b) denied that § 87(2)(b)'s body was laid out on the lawn and she did not hear her complain of any injuries. § 87(2)(b) saw § 87(2)(b) touching her knee but denied that she saw any injuries, abrasions lacerations or bleeding (Board Review 12).

§ 87(2)(b)'s neighbor, § 87(2)(b) stated that he exited his house and saw § 87(2)(b) seated on the lawn but did not see what occurred before she ended up on the lawn. § 87(2)(b) approached § 87(2)(b). § 87(2)(b) told § 87(2)(b) that she was all right but the officers had dragged her and placed her on the lawn. § 87(2)(b) denied that § 87(2)(b) complained of any injuries (Board Review 6).

Lieutenant Clement stated that once § 87(2)(b) arrived, he allowed her entry into the house because, as a family member, he believed that she would help the officers coax § 87(2)(b) to leave voluntarily. However, § 87(2)(b) began to agitate § 87(2)(b) by telling that she did not need to go to the hospital or leave the location despite the officers' and medical personnel's instructions to do so. § 87(2)(b) also placed her body in front of § 87(2)(b)'s, and for approximately five minutes, § 87(2)(b) refused lawful orders to leave.

Lieutenant Clement then instructed PO Colon to help him remove § 87(2)(b) from the house so § 87(2)(b) could be transported to the hospital. PO Colon approached § 87(2)(b) and grabbed her left arm and Lieutenant Clement grabbed her right arm. No other officers assisted. At this point, § 87(2)(b) dropped her body weight and made her body go limp. Lieutenant Clement denied that § 87(2)(b)'s body was dragged on the floor but acknowledged that it was plausible her lower extremities made contact with the floor, as she was refusing to plant her feet on the ground and walk on her own. Once at the front porch Lieutenant Clement and PO Colon had to re-adjust themselves and slightly lift § 87(2)(b)'s body up to prevent her body from hitting any part of the steps.

Lieutenant Clement and PO Colon then walked § 87(2)(b) to the lawn and sat her upright. Once Lieutenant Clement and PO Colon released § 87(2)(b)'s arms, she laid her body flat on the ground. Lieutenant Clement denied that he or the other officers dropped, pushed, or threw her. Lieutenant Clement asked the EMTs to check § 87(2)(b) for any injuries. Lieutenant Clement then watched as the EMTs approached § 87(2)(b) and asked her if she needed any medical attention, to which she responded, "No. I am ok." Lieutenant Clement denied that there were any injuries on § 87(2)(b) and denied that there were any marks or lacerations on her arms. Lieutenant Clement noted in his memo book that when § 87(2)(b) arrived at the location, she was uncooperative and had to be "escorted out of the house." Lieutenant Clement noted that she did not sustain any injuries (Board Review 3 and 14).

PO Colon only recalled that § 87(2)(b) was hostile and cursing at § 87(2)(b) and said, “This is bullshit. How dare you. She is fucking fine.” PO Colon did not recall being asked to assist in removing § 87(2)(b) from the house and denied that he made physical contact with her. PO Colon did not see § 87(2)(b) being brought out of the house and only recalled seeing § 87(2)(b) sitting upright on the lawn. He did hear her say, “They threw me on the floor.” PO Colon did not see any injuries on § 87(2)(b). PO Colon also noted in his memo book that § 87(2)(b) refused to allow the officers to take § 87(2)(b) into custody (Board Review 4 and 15).

PO Johnson stated that § 87(2)(b) entered the house and placed herself in between § 87(2)(b) and the officers. Once in front of § 87(2)(b), § 87(2)(b) would not allow the officers to speak to § 87(2)(b) despite them explaining that she had to be taken to the hospital for an evaluation. At some point, without any physical contact by an officer, § 87(2)(b) dropped her body weight and fell to the ground. While on the ground, § 87(2)(b) yelled and said, “Help. Help.” Lieutenant Clement grabbed her hand and told her to get up, but she refused. Lieutenant Clement and one other officer, who PO Johnson did not recall, told § 87(2)(b) that she had to stand up and walk outside. Lieutenant Clement attempted to hold § 87(2)(b) up, but she continued to drop her body weight. Eventually, § 87(2)(b) stood up on her own. PO Johnson did not recall any officer assisting § 87(2)(b) off of the ground but stated that she saw her walk on her own and sit on the lawn. PO Johnson denied that § 87(2)(b) was ever thrown on the lawn or that she was picked up by an officer. PO Johnson did not see any injuries on § 87(2)(b)'s body and denied that § 87(2)(b) complained of any pain (Board Review 2 and 13).

According to § 87(2)(b)'s medical records, she visited her primary care physician on § 87(2)(b), and a radiologist on § 87(2)(b). § 87(2)(b) stated to medical personnel that officers pushed her, which caused her to fall. She also stated that officers dragged her across the floor and left her in her lawn. The medical records noted that there was no swelling or deformity and noted that § 87(2)(b) did not have any acute fracture or dislocation. The medical records noted that § 87(2)(b) does have age-related osteoporosis (see privileged documents).

“If police have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life, a warrantless entry may be permitted.” People v. Musto, 966 N.Y.S. 2d 263 (2013) (Board Review 20). “A person who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which the officer reasonably believes is likely to result in a serious injury to himself or others must be removed to the hospital.” NYPD Patrol Guide, Section 221-13 (Board Review 17). “An officer may apply no more than the reasonable force necessary to gain control.” NYPD Patrol Guide, Section 221-01 (Board Review 18).

It is undisputed that medical personnel deemed it necessary that § 87(2)(b) was transported to the hospital for psychiatric care. § 87(2)(g)

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Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date